

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

| | | |
|------------------------|---|-------------------|
| JOHNETTA LAVONNE ROWE, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| vs. |) | NO. CIV-07-334-HE |
| |) | |
| WARDEN MIKE MULLIN, |) | |
| |) | |
| Respondent. |) | |

ORDER

Petitioner Johnetta Lavonne Rowe, a state prisoner appearing pro se, instituted this action pursuant to 28 U.S.C. § 2254 seeking habeas relief. Consistent with 28 U.S.C. § 636(b)(1)(B) and (C), the matter was referred for initial proceedings to Magistrate Judge Valerie K. Couch, who has recommended that a motion to dismiss filed by the respondent be granted and the petition be dismissed as untimely. The magistrate judge concluded that statutory tolling was not available and that the petitioner had failed to demonstrate that the one-year limitations period should be equitably tolled.


The petitioner has filed an objection asserting that, because she has been deprived of her constitutional rights, she cannot be denied habeas relief on the basis her petition was untimely. She also refers in her objection to other litigation she has pending in this district.

Having conducted a de novo review, the court concurs with Magistrate Judge Couch that the statutory year to file has expired with respect to the petitioner's claims, *see* 28 U.S.C. § 2244(d)(1)(A), and that, in the circumstances of this case, the limitations period is not subject to statutory or equitable tolling. Accordingly, the court adopts Magistrate Judge

Couch's Report and Recommendation, **GRANTS** the respondent's motion [Doc. #11] and dismisses the petition for writ of habeas corpus.

IT IS SO ORDERED.

Dated this 25TH day of June, 2007.



JOE HEATON
UNITED STATES DISTRICT JUDGE